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## ARTICLE SEVEN

### SUPPLEMENTAL SITE DEVELOPMENT REGULATIONS

#### 701 Purpose

The Supplemental Site Development Regulations establish basic requirements for developable lots, including frontage requirements. Recognize the existence of special conditions that cannot comply literally with the site development regulations set out for each zoning district. Therefore, these regulations qualify or modify the district regulations of this Ordinance and provide for specific areas of exception.

#### 702 Lot Size Exceptions

In any district permitting residential use types, a single-family or duplex use type may be located on any lot or plot of official record as of the effective date of this Ordinance, regardless of its area or width, but subject to the following requirements:

- a. The sum of the widths of the side yards of such lot shall be the lesser of those required by the district regulations or 25% of the width of the lot. No single interior side yard shall be less than 10% of the width of the lot. This exception does not apply to street side yards.
- b. The depth of the rear yard of such lot need not exceed 20% of the depth of the lot, but shall not be less than 20 feet.
- c. If two or more such adjacent lots are combined under single ownership, the resulting combined lots shall be treated as a single lot for purposes of applying these setback requirements.

#### 703 Setback Adjustments

##### a. Lots Adjoining Alleys

In calculating the depth of a required side or rear yard setback for a lot adjoining a dedicated public alley, one-half of the alley may be credited as a portion of the yard. However, no residential structure may be nearer than three feet to the near side of the alley.

##### b. Encroachments on Required Yards

Every part of a required yard shall be open and unobstructed from finished grade upward, except as specified herein.

1. Architectural projections, including roofs which cover porches, enclosed porches, window sills, belt courses, cornices, eaves, flues and chimneys, and ornamental features may project three feet into a required yard.
2. Terraces, patios, uncovered decks, and ornamental features, which have no structural element more than three feet above or below the adjacent ground level, may project ten feet into a required yard. However, all such projections must be set back at least three feet from an adjacent side lot line; or twenty feet from any street property line.

3. Fire escapes, fireproof outside stairways, and balconies opening to fire towers may project a maximum of 3 feet into required yards, provided that they do not obstruct the light and ventilation of adjacent buildings.
4. For buildings constructed upon a front property line, a cornice may project into public right-of-way. Maximum projection is the smaller of four feet or five percent of the right-of-way width.
5. In commercial districts, a canopy may extend into a required front yard, provided that the canopy is set back at least five feet from the front property line, covers less than fifteen percent of the area of the required front yard, and has a vertical clearance of at least eight feet six inches.
6. Swimming pools shall be subject to the same location and setback requirements as accessory buildings.
7. Lamp posts with a maximum height of ten (10) feet, and flag poles up to maximum height of base district may be located within required yards, provided they are set back at least five (5) feet from property lines.
8. Setbacks for accessory buildings are set forth in Section 705.

c. Setbacks on Arterial Streets

1. Notwithstanding any other provision of this ordinance, all buildings built or altered along a State or Federally designated highway shall maintain a 175 foot setback from the centerline of such highway. Within 100 feet of the centerline of an intersecting State or Federally designated highway, the setback shall increase to 210 feet from such centerline.
2. Any required off-street parking area along a State or Federally designated highway shall maintain a 150-foot setback from the centerline of such highway. Within 100 feet of the centerline of an intersecting State or Federally designated highway, the setback shall increase to 185 feet from such centerline.
3. Lots of record under five acres in size; lots of record duly platted and approved prior to the effective date of this Ordinance, or where a properly dedicated and accepted frontage road right-of-way exists are exempt from these provisions and are instead subject to the setback requirements of their respective zoning district.

d. Setback Adjustments

1. Setbacks on Built-Up Blockfaces

These provisions apply if thirty percent or more of the buildings on that blockface have front yard setbacks different from those required for the specific district.

- (a) If a building is to be built on a parcel of land within 100 feet of existing buildings on both sides, the minimum front yard shall be the mean setbacks of the adjacent buildings.

- (b) If a building is to be built on a parcel of land within 100 feet of an existing building on one side only, the minimum front yard shall be the setback of the adjacent building.
- (c) If a building is to be built on a parcel of land not within 100 feet of an existing building on either side, then the minimum front yard shall be the mean setback of all existing buildings on the blockface.
- (d) No setback adjustment pursuant to this section shall create a required front yard setback more than five feet greater than that otherwise required by the applicable zoning district.

2. **Corner Lots**

Required setbacks shall not reduce the buildable width of any corner lot to less than 24 feet. Appropriate setback adjustments shall be allowed to maintain this minimum width.

e. **Rear Yard Exceptions - Residential Uses**

When an irregular lot is used for residential purposes, the rear yard may be measured as the average horizontal distance between the building and rear lot line, provided that the minimum setback shall not be less than sixty percent (60%) of the rear yard required by the zoning district.

f. **Double Frontage Lots**

Residentially zoned double frontage lots on a major street, and with no access to that street may have a 25-foot minimum front yard setback along said street. All other double frontage lots must provide full front yard setbacks from each adjacent street.

g. **Satellite Antennas**

- 1. Each lot shall have no more than one satellite antenna.
- 2. Antennas with a surface area over 6.3 square feet which are accessory to a primary use and are designed to receive and transmit electromagnetic signals, or to receive signals from satellites, shall not be located within any front yard of the primary use.
- 3. Antennas with a surface area of over 6.3 square feet are subject to the following additional regulations:
  - (a) Such antennas shall be located no less than ten feet from the property line of an adjacent property line.
  - (b) The maximum height shall be 15 feet and the maximum diameter shall be 11 feet.
  - (c) Each antenna shall be screened by a six-foot high wood or masonry fence, or by natural plants or trees of equal minimum height.

h. **Vision Clearance Zones**

Except in the DC District, no structure, including a fence, shall be built to a height of more than three feet above the established grade on the part of the lot within a vision clearance zone. The vision clearance zone shall be a triangle measured from the point of intersection of the right-of-way lines of

the streets to a point 30 feet in each direction from the intersection along such right-of-way lines. No landscaping shall be planted in such area, which will materially obstruct the view of drivers approaching the street intersection.

**704     Accessory Buildings and Garages**

**a. Setbacks and Setback Flexibility**

Accessory buildings for residential uses are subject to all site development regulations of its zoning district, except as provided below:

1. **Side Yards:** An accessory building may be located a minimum of three feet from the side lot line of the property if it is located in an area from six feet behind the rear building line of the principal building to the rear property line and is under 15 feet in height. An additional one-foot setback is required for every two feet above 15 feet in height, up to the minimum requirements of the zoning district.
2. **Front Yards:** No accessory building may be located between the front building line of the principal building and the front property line.
3. **Rear Yard:** The minimum rear yard setback for accessory buildings shall be 5 feet. This minimum rear yard setback shall be increased to 15 feet if the accessory building is a garage with a vehicular entrance door that is directly oriented toward an alley. Double-frontage lots shall require front-yard setbacks along both street frontages as set forth in Table 4-3. Easements may be incorporated into these required setbacks. No accessory building shall be located within any easement or right-of-way along the rear property line.
4. **Street Yards:** No accessory building shall be located within 20 feet from any street right-of-way line.
5. **Garage Setbacks:** Any garage that fronts on a public street must be set back at least 25 feet from such street, regardless of the setback requirement within the zoning district. This shall not be interpreted to waive a larger required minimum setback required by the zoning district.

**b. Maximum Size and Number of Residential Accessory Buildings**

1. R-1, R-2, R-3, R-4 or R-5 Residential Districts, RL- Lake and River Residential, RR – Rural Residential or AG – Agricultural/Urban Reserve District with a net lot area of less than 5.00 Acres (area excluding public right-of-way), or RR District or AG District with net lot area of 5.00 acres or more (area excluding public road right-of-way) with Section 704 modified setbacks.
  - a) No accessory building other than a detached garage shall not exceed the greater of 150 square feet or 1.5% of the total lot area. All accessory buildings shall require a building permit.
  - b) The maximum size of a detached garage accessory building for a single-family detached, single-family attached or duplex residential use shall not exceed 25% of the required rear yard or 100% of the primary residential structure or in any case exceed 864 square feet. This regulation shall not prohibit construction of a single 720 square foot garage even if such construction exceeds these restrictions.

- c) There shall not be more than two accessory buildings per dwelling unit, plus one for pets not exceeding 16 square feet.
  - d) All accessory buildings on a site, taken together, must comply with the building coverage requirements for the zoning district and shall not in any case occupy more than 25% of the required rear yard and 120% of the building coverage of the primary residential structure. This regulation shall not prohibit construction of a single 720 square foot garage on a minimum rear yard, even if such construction exceeds these restrictions.
2. Agriculture/Urban Reserve District RL- Lake and River Residential, and RR – Rural Residential District with net lot areas of 5.00 acres or more (area excluding public road right-of-way), provided AG District standard setback requirements are met.
- a) The maximum size of an accessory building for a single family detached, single family attached or duplex residential use shall not exceed 1.0% of the net lot area (excluding public road right-of-way), or 200% of the primary residential structure, or 2,400 square feet. An accessory building may exceed these maximums subject to approval of a Conditional Use Permit and other requirements of this section.
  - b) All accessory buildings on a site, taken together, must comply with the building coverage requirements for the zoning district and shall not in any case occupy more than 1.55% of the net lot area (excluding public road right-of-way), or 300% of the building coverage of the main structure.

Architectural Requirements for Accessory Buildings

- 1. Exterior building materials and architectural designs used for all accessory buildings over 150 square feet and detached garage accessory buildings for single-family detached, single-family attached or duplex residential structures shall be consistent with the character of, or architecturally harmonious with, the existing primary residential structure.
- 2. Exterior materials shall be non-reflective and shall be of a color, material, and scale comparable to existing residential structures in the immediate area. Permanent siding shall be, or simulate, wood, wood shingles, brick, masonry, or tile. The roof shall be pitched with a minimum vertical rise of 2.5 inches for each 12 inches of horizontal run. Roof construction shall be of non-reflective materials, which either are or simulate the appearance of asphalt, wood shingles, tile, or rock.
- 3. All accessory buildings over 150 square feet shall comply with these architectural requirements, unless other architectural requirements are approved as part of a Conditional Use Permit, or unless the building is in the AG or RR District with a net lot area of 5.00 Acres or more (area excluding public road right-of-way) and provided the AG District standard setbacks are met.

d. Height of Accessory Buildings

In residential districts, the maximum height shall not exceed the lesser of the height of the main structure or 16 feet for any accessory building. Maximum height for a detached garage and/or other accessory building in an AG or RR District shall be 20 feet.

e. Other Requirements for Accessory Buildings: Physical Separation, Effects on Other Properties, Hazards, and Sequencing of Construction

1. Separation from Other Buildings: No accessory building shall be placed within six feet of any other building on its own property.
2. Attached Accessory Buildings: Any accessory building physically attached to the principal building shall be considered part of the principal building and subject to the development regulations of its zoning district.
3. Effect on Adjacent Properties: If an adjacent lot is built upon, the accessory building must be entirely to the rear of the front line of any principal building on such adjacent lot.
4. Hazards: Any accessory use, which creates a potential fire hazard, shall be located a minimum of 10 feet from any residential structure. Such uses include but are not limited to detached fireplaces, barbecue ovens, or storage of flammable materials.
5. No accessory building shall be built upon any lot until construction of the principal building has begun.

**705 Height Exceptions**

These provisions allow exceptions to the height limit of any zoning district in certain situations.

a. Vertical Projections

Chimneys, cooling towers, building mechanical equipment, elevator bulkheads, fire towers, grain elevators, non-parabolic receiving antennas, tanks, solariums, steeples, penthouses not exceeding 25 percent of total roof area, flag poles, stage towers or scenery lofts, and water towers may be built to any height in accordance with existing and future ordinances.

b. Amateur Radio Towers and Federal Communication Commission Pronouncements

1. Radio towers, antennas and other appurtenances operated by licensed amateur radio operators, where permitted and when, may not exceed 75 feet in height. This height has been determined by the City to reasonably accommodate amateur service communications, and further represents the minimum practicable regulation to accomplish legitimate municipal land use regulation purpose, as recognized under published guidelines of the Federal Communications Commission.
2. Special instances may require that amateur radio tower heights exceed 75 feet to achieve effective and reliable communications. In such cases, the Board of Adjustment may grant a Conditional Use Permit to a licensed amateur radio operator for a specific tower height that exceeds 75 feet. In determining whether to grant such permission, the City Council shall consider the federal guidelines contained in PRB-1 (Amateur Radio Preemption, 101 FCC 2d (1985); codified at C.F.R. Section 97.15(e).
3. Such radio towers shall not be located within any front yard of the primary use.

c. Civic Buildings

Buildings housing civic use types may be built to a maximum height of 60 feet. Such buildings located in residential districts shall be set back one foot in addition to required setbacks from each property line for each foot of height over the maximum height of the zoning district.

d. Communications Towers

Communications towers, when operated by a federally-licensed commercial or non-profit organization, may be built to any height in accordance with existing and future ordinances. This exception does not apply to radio towers, antennas and other appurtenances operated by licensed amateur radio operators. Such towers are subject to the requirements of Section 10.610b.

e. Wind Energy Conservation Systems (WECS)

Wind Energy Conservation Systems are exempt from the height restrictions of the base district but is subject to the regulations of Section 10.610c.

f. Conditional Use Approvals

The Planning Commission may grant an exception from the height limit for a zoning district for a Conditional Use as part of its approval of that use. The limit or extent of this exception shall be a specific part of the Conditional Use Permit.

g. Federal Aviation Administration Rules

No structure may be built in any zoning district, which exceeds the maximum height permitted under the rules of the Federal Aviation Administration. These rules describe the glide angles and operational patterns for any airport within the planning jurisdiction of the City of Fremont.

**706 Exceptions to Site Development Regulations for Conservation Subdivisions**

a. Purpose

In the instance that the Subdivision Chapter of the Land Development Ordinance provides for Conservation Subdivisions, the city may authorize such subdivisions to allow for greater flexibility in the design and development of subdivisions, in order to produce innovative residential environments, to provide for more efficient use of land, to protect topographic and to encourage the preservation of common area and open space. These special regulations and design exceptions apply only to Conservation Subdivisions.

b. Site Area Per Unit

Unless otherwise provided, the site area per unit for a conservation subdivision as a whole shall be that of the zoning district in which such subdivision is located. For the purpose of computing site area per unit, the area of public streets and private ways within the subdivision must be excluded. Residential use types may be combined within the conservation subdivision provided that the subdivision as a whole complies with the required maximum density of the zoning district.

c. Perimeter Yards

1. Structures must maintain normal street yard setbacks from any public streets that form the perimeter of the development.
2. Structures must maintain a 20-foot minimum sideyard setback from any property line that forms the boundary of the development.

d. Area and Yards for Individual Lots

1. Individual lots within a conservation subdivision are exempt from minimum lot area or yard setback requirements set forth elsewhere in this Ordinance, unless provided for by the regulations for a specific zoning district. A conservation subdivision must be planned and developed as a common development. A minimum separation of twenty (20) feet shall be established for all residential structures not attached to one another, unless the City Council grants a specific exception for developments proposing unique circumstances, only in as much as said development can be demonstrated to avoid detriment to Fremont's efforts to protect public health, safety, welfare, community character, property values and aesthetics.
2. Any private garage oriented to or facing a public street or private way internal to the conservation subdivision must be set back a minimum of 25 feet from that public street or private way.

e. Coverage and Landscaping Requirements

Individual lots in a conservation subdivision are exempt from maximum building and impervious coverage limitations and street yard landscaping requirements established for the zoning district. However, the subdivision as a whole, including streets, walks, and access ways, must comply with the building and impervious coverage regulations for its zoning district.

**707 Fence Regulations**

a. Location Restriction

1. Unless otherwise provided by this Ordinance or other sections of the Fremont Municipal Code, no fence shall be built on any lot or tract outside the surveyed lot lines or tract outside the surveyed lot lines.
2. No fence shall be built by a private party on public land without the specific prior approval of the City. Removal of any such fence shall be at the expense of its owner.

b. Applicability

The regulations contained in Sections 11.707(b) through 11.707(j) apply to all fences with a height above grade of 30 inches and over.

c. Required Openings

Unless otherwise provided by this Ordinance or other sections of the Fremont Municipal Code, any fence built on residential property within required front or street side yards shall contain openings constituting no less than 50 percent of the surface area of the fence.

d. Sight Obstruction Intersections



No fence or hedge permitted or required by this article or other sections of the Fremont Municipal Code shall be built to a height of more than three feet above the established grade on the part of the lot within a vision clearance zone. The vision clearance zone for fence construction shall include:

1. At street intersections, a triangle measured from the point of intersection of the right-of-way lines of the streets to a point 30 feet in each direction from the intersection along such right-of-way lines. No landscaping shall be planted in such area, which will materially obstruct the view of drivers approaching the street intersection.
2. At intersections of a sidewalk and alley or non-residential driveway or parking lot access, a triangle whose legs extend 15 feet back from the sidewalk along the alley or driveway, and 15 feet parallel to and along the back of the sidewalk back from the intersecting alley or driveway.
3. At intersections of an interior lot line and an alley and/or driveway, a triangle whose legs extend back 15 feet each way.

e. Facing

The finished surfaces of any fence shall face toward adjacent properties and street frontage.

f. Effect on Adjacent Properties and Drainage

Fences shall be erected and maintained so as to avoid limiting or obstructing the flow of water in natural drainage courses, or drainageways created within easements.

g. Fence Construction on Utility Easements

Any fence erected on a tract of land subject to an easement for the construction, maintenance, operations, or replacement of any water, sanitary or storm sewer, gas line, electric power, telephone, or other utility poles, or other cables or lines shall be designed and constructed to be readily removable to permit the use of the easement. Such fences shall be subject to removal by request of the owner of the easement whenever necessary to permit access. The cost of removal or replacement shall be the responsibility of the owner of the fence.

h. Protective Fences around Swimming Pools

A fence with a minimum height of six feet and compliant with the terms of this section shall be required around public or private swimming pools.

i. Residential Fences

Fences constructed within residential districts or on land used for residential purposes are subject to the following provisions.

1. Height: The maximum height of a fence within a required front yard or street side yard setback shall be 42 inches. The maximum height for any fence outside of a required front yard shall be six feet.
2. Exception for Street Side Yards: On corner lots, a fence built parallel to the street side yard line but set back in conformance with the required street yard setback may have a maximum height of six feet.

3. Exception to Openness Requirement: Fences built on residential property outside of required front or street side yards may exceed of 50 percent closed construction.
4. Exception for Front Yards of Double Frontage Lots: A fence built within the required front yard of a double frontage lot may be a maximum of six feet in height and may exceed 50 percent closed construction if such lot fronts an arterial street or expressway, as defined in the Comprehensive Development Plan of the City of Fremont; and if such frontage does not provide primary access to the property.
5. Materials: Fences shall be constructed of wood, chain-link, PVC/ resin, stone or masonry materials, or ornamental metals only. Wood fences shall utilize standard building lumber only. Barbed wire and/or electrified fences are not permitted, and are defined as any fence that includes in its material barbs, blades, razors, electric current or other features specifically designed to injure or abrade an individual or animal who attempts to negotiate the fence. Wire mesh fences may be permitted to enclose tennis courts and game and recreation areas on public land and residential lots.

j. Civic, Office, Commercial, and Industrial Fences

Fences constructed in commercial and industrial districts are subject to the following special provisions:

1. The maximum height of a fence for any permitted use in any non-residential zoning district shall be eight feet.
2. Civic Uses in Residential Districts: The maximum height of fences installed as part of Primary and Secondary Educational Facilities, Day Care, and Park and Recreation Use Types, or any other use that provides secured outdoor space for the use of children within Residential Zoning Districts shall be eight feet.
3. The Board of Adjustment may approve greater fence heights on a case-by-case basis if it concludes that such permission furthers the health, safety, and welfare of the residents of the City of Fremont.
4. Barbed wire shall not be used in the construction of any fence outside of the GI General Industrial Zoning District. Barbed wire may be used in the construction of fencing in an industrial district provided that the bottom strand of the wire shall be at least six feet above ground level. Electrified fences are not permitted within the jurisdiction of the City of Fremont.

**708 Appeals**

Denial, revocations, or cancellations of a building permit based on the provisions of this Section may be appealed to the Board of Adjustment, as set forth in Sections 1208 through 1210.